

REMARKS

Clerical changes are made to the claims above. Applicant respectfully requests reconsideration of this application.

The objection to claim 7 can be withdrawn.

Applicant respectfully disagrees with the Examiner's preference to use "comprises" in place of "comprising." Applicant has carefully chosen the word "comprising" and believes that it is a more appropriate choice in this instance. Applicant respectfully requests that the objection to claim 7 be withdrawn.

The rejections under 35 U.S.C. §112 can be withdrawn.

To the extent that there was any possible ambiguity in claim 7, the clerical changes to that claim above eliminate any such ambiguity and the rejection can be withdrawn.

The other clerical changes to the claims above are intended to make sure that there is no doubt that the claims are entirely clear.

The rejection under 35 U.S.C. §102 must be withdrawn.

Applicant believes that the Examiner has misunderstood Applicant's arguments or misrepresents them. On page 8 of the Office Action the Examiner appears to suggest that Applicant has indicated that a change of the weight distribution of the car assembly in the *Tominaga, et al.* reference would inherently occur. Applicant did not argue that. In fact, Applicant points out that the opposite is true of the *Tominaga, et al.* reference. As quoted by Applicant, the machine translation of the *Tominaga, et al.* reference indicates that there is no weight distribution or shift according to the teachings of that reference. Further, the Examiner is not correct by stating that "maintaining a level of his platform/plank does not preclude any tilting of his car assembly attributable to a weight distribution during its assembly." If the level is

maintained, then no tilting or shifting because of weight distribution occurs. If the weight distribution were changed so that the car would tilt, then it would be necessary that the level of the platform would not be maintained. It is logically impossible to have something remain level and tilt at the same time.

Claim 7 is not anticipated because the *Tominaga, et al.* reference does not have braces arranged in a substantially V-shaped orientation nor does it have a brace that includes a slot and a fastener received through the slot to secure the brace to an upright. Instead, the *Tominaga, et al.* reference includes a bracket 3 that is secured to a doorpost 4 in some other manner. There is no possible *prima facie* case of anticipation against claim 7.

Claim 9 recites a brace that has a slot at one end that makes it adjustable relative to a platform and a second slot near an opposite end that makes the brace adjustable relative to the upright. There is no such brace in the *Tominaga, et al.* reference. The bracket 3 remains fixed relative to the upright 4 at all times. The only oblong holes 12 in the bracket 3 are situated relative to the floor. There is no possible *prima facie* case of anticipation against claim 9.

The rejections under 35 U.S.C. §103 must be withdrawn.

It is not possible to establish a *prima facie* case of obviousness against claim 13. Even if it were possible to incorporate some teachings from the *Norman* reference into the *Tominaga, et al.* reference there is no *prima facie* case of obviousness. Neither reference has braces arranged in a V-shaped orientation where two of the braces are legs of a V. Therefore, even if the proposed combination were made, the result is not sufficient to establish a *prima facie* case of obviousness against claim 13.

The same is true of claim 14.

The rejection of claims 17-19 is not explained in any manner that establishes a *prima facie* case of obviousness. Apart from that, the *Tominaga, et al.* reference expressly teaches an opposite conclusion. Claim 17 recites a method that is nowhere disclosed or possible within the *Tominaga, et al.* reference. Claim 17 includes supporting a car assembly in a hoistway and allowing it to tilt relative to guiderails. A position of the platform is then adjusted to change the weight distribution of the car assembly within the hoistway and to balance the car assembly. Nothing of the sort is possible within the *Tominaga, et al.* reference.

The *Tominaga, et al.* reference specifically teaches that adjustment of the floor 1 and drag flask 2 will not have any affect on any tilting of the door post 4. Paragraphs 0013 and 0014 of the machine translation indicate that “the levelness of the floor 1 is not affected and the door post 4 is not moved, the plumbness of the door post 4 is not affected, either, thereby, the re-alignment of levelness and plumbness is not required.” In other words, the car assembly in the *Tominaga, et al.* reference never tilts relative to a guiderail when making an adjustment to change the distance between the sill 10 of the floor 1 and the sill 11 of the building. Therefore, it is impossible to perform a method consistent with claim 17 when using the teachings of the *Tominaga, et al.* reference. There is no *prima facie* case of obviousness against claim 17.

As quoted above, the reference specifically requires that the car does not tilt in the hoistway. Therefore, it would be impossible to perform the method of claim 17 without changing the principle of operation in the *Tominaga, et al.* reference or removing the intended feature of preventing tilt. A reference cannot be modified in a manner to work in the opposite of the way it is taught nor can an intended feature of a reference be removed. MPEP 2133(V)

and (VI) are instructive on this point. There is no possible *prima facie* case against claim 17. There is nothing within the *Tominaga, et al.* reference or the *Norman* reference that in any way could provide a result consistent with that of claim 17 in which a car assembly is allowed to tilt relative to guide rails and a position of the platform is adjusted relative to the planking to change the weight distribution of the assembly and to thereby balance it. The *Tominaga, et al.* reference expressly prohibits changing a weight distribution to change the levelness or balance and expressly prohibits tilting the car. There is no way to derive Applicant's invention of claim 17 from the *Tominaga, et al.* reference even if it were combined with the *Norman* reference.

There is no *prima facie* case of obviousness against claim 15 based upon the proposed combination of the *Tominaga, et al.* and *Lemmo* references. Even if that combination could be made, there are no two braces that are the legs of a V in a V-shaped orientation. There is no *prima facie* case of obviousness.

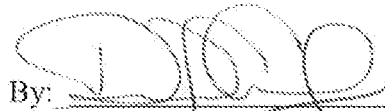
There is no *prima facie* case of obviousness against claim 10 based upon the proposed combination of the *Tominaga, et al.* and *Jackson* references. The *Tominaga, et al.* reference does not have a brace that is adjustable relative to the upright. The bracket 3 and the door post 4 are not adjustable relative to each other. Therefore, it is not possible to find the adjustment relative to the upright and the platform as recited in claim 9. Therefore, even if the proposed combination were made, there is no *prima facie* case of obviousness against claim 10.

Conclusion

All rejections must be withdrawn. The *Tominaga, et al.* reference does not establish a *prima facie* case of anticipation and cannot be used to establish a *prima facie* case of obviousness against any of Applicant's claims. This case is in condition for allowance.

Respectfully submitted,

CARLSON, GASKEY & OLDS

By: 

David J. Gaskey, Reg. No. 37,139
400 W. Maple Rd., Ste. 350
Birmingham, MI 48009
(248) 988-8360

Dated: December 1, 2009

N:\Clients\OTIS ELEVATOR\JP00097 PUS1\PATENT\Response 11-09.doc